IN THE HIGH COURT OF UTTARANCHAL AT- NAINITAL

W.P. No. 1669 of 2001 (M/B)
(Old No. 17684 of 1993)

Pradeep Kumar Gupta …….. Petitioner

Versus

State of U.P. & another …….. Respondents

Hon. P.C. Verma, A.C.J.
Hon. Rajesh Tandon, J.

Heard Mr. M.C. Kandpal, learned standing counsel for the petitioner and Mr. K.P. Upadhyaya, learned Standing Counsel for the State.

By means of present writ petition, the petitioner has prayed for a writ of certiorari to quash the order dated 3.5.1993 passed by the Assistant Engineer, Camp Management Division, Kalagarh, District Garhwal cancelling the allotment of the plot in favour of the petitioner.

Brief facts giving rise to the present writ petition are that the petitioner was allotted a plot No. 56 in Kachcha Market, New Colony, Kalagarh by the respondent No. 2 i.e. Assistant Engineer, Camp Management Division, Kalagarh, District Garhwal vide order dated 23.3.193 for the purpose of running a press. The petitioner has complied with all the formalities and the lease agreement was executed. The petitioner has submitted that on 1.5.1993, a show cause notice was issued stating therein that the constructions may be stopped otherwise the proceedings for cancellation of the allotment will be taken. In the meantime, before the expiry of one week that is on 3.5.1993, the allotment has been cancelled.

Learned counsel for the petitioner has submitted that the order of cancellation is wholly arbitrary and has been passed without taking any reply of the show cause notice. The petitioner has not been heard before passing the impugned order dated 3.5.1993. A perusal of the lease agreement shows that there is an arbitration clause, which is clause 5, which reads as under:

"5. That every dispute, difference or question touching or arising out of this lease any time during the continuance of this lease or after its termination from any clause whatsoever or the subject matter thereof shall be referred to the sole arbitration of the Superintending Engineer Inspection & Control Circle, Kalagarh whose decision thereon shall be final and binding on the parties."

The remedy of the petitioner, therefore, lies on the sole arbitration of the Superintending Engineer, Kalagarh whose decision thereon shall be final and binding on the parties.

We, therefore, direct the Supertending Engineer, Inspection & Control Circle, Kalagarh to decide the dispute with regard to the cancellation of the allotment in favour of the petitioner on 3.5.1993. Pending arbitration proceedings before the Superintending Engineer, the interim order granted by this Court on 24th May 1993 shall remain in operation and the petitioner shall not be dispossessed from the plot in dispute.

Accordingly, the writ petition is disposed of.

(Rajesh Tandon J.) **(P.C.Verma, A.C.J.)**

Dt. 17.03.2004.

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